

How tribal sovereignty & self-determination shapes environmental health priorities, practices, partnerships



## Presenter Disclosure

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No relationships to disclose

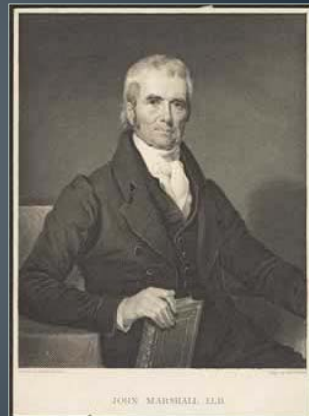
## What is Tribal Sovereignty?

- Tribes are independent entities with inherent powers to govern themselves
- Independence of tribes subject to the powers of Congress to regulate and modify the status of the tribes
- In general, power to deal with and regulate tribes is wholly federal
- States excluded from regulating tribes **UNLESS** Congress delegates power to them
- Tribes have **government-to-government relationship** with the US and also with the states.

## Tribal Sovereignty

### Origins and Development of Tribal Sovereignty

- John Marshall, longest serving Chief Justice in Supreme Court
- Judicial review – strike down laws that violate U.S. Constitution
- Decided 3 cases that form basic framework of federal Indian Law called the Marshall Trilogy:
  - Johnson v. M'Intosh (1823)
  - Cherokee Nation v. Georgia (1831)
  - Worcester v. Georgia (1832)



## Federal Indian Policy

The Self-Determination Era (1962-Present)

- President Nixon implemented policies supporting:
  - Tribal self-governance
  - Protected land
  - Transferring Indian programs to tribal governments



Richard Nixon, seen here with tribal leaders in 1970, was a strong advocate for tribal self-determination (AP Images)

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## What does Self-Governance Mean?

- Right to form own governments
- Right to make and enforce own civil and criminal justice systems
  - Major Crimes Act- 14 crimes (felonies)
- Power to tax
- Power to establish membership
- Right to license, zone, and regulate activities
- Power to exclude persons from tribal territories

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## What this means for EH...

- Enact their own health regulations to protect the health, safety, and welfare of their communities and membership
- Not subject to state public health laws, and tribes can enact stricter or more lenient laws and regulations than those of a state.
- Draft legislation and design priorities and practices that are often influenced by tribal beliefs, traditions and unique needs.

## Navajo Nation



## Examples Navajo Nation Regulation

- Navajo Nation Environmental Policy Act
- Navajo Nation Clean Water Act
- Surface Water Quality Standards
- Navajo Nation Environmental Response Compensation and Liability Act
- Navajo Oil and Gas Code.

## Navajo Nation regulation priorities

In many ways comparable to federal counterparts but focus on cultural practice and historical site preservation

- **Navajo Nation Environmental Protection Act**
  - Emphasis on preservation of tribe's cultural and religious sites
  - Trustee of environment for 'succeeding generations'
- **Navajo Nation Clean Water Act** –water source
  - Strict water quality restrictions for religious purposes
  - Oil and gas development restricted if it could impact religious site

## PARTNERSHIPS: Multi-tribal Wind Energy Project



### Multi-tribal Wind Energy Project

- Six SD Lakota/Dakota tribes and Bush Foundation unite
- Tribal lands cover 16% of state
- Could generate 784-megawatts of power (1mw: 350 homes)
- Aims to alleviate tribes' struggles: poverty, joblessness and economic development
- Obstacle:
  - Buyers and Transmission Lines
  - Endangerment of certain Eagle species
  - Tribes like solar

## Clinton Global Initiative recognizes six SD tribes June, 2013



## Self Determination extends to grassroots



Tribal members and tribal organizations are creating grass roots movements around environmental health in efforts to protect Mother Earth



## Lakota Solar Enterprises

Lakota Solar Enterprises (LSE), located on the Pine Ridge Reservation in South Dakota, is one of the nation's first 100% Native American-owned and operated renewable energy companies. Founded in 2006 by Pine Ridge resident Henry Red Cloud, with nonprofit partner Trees, Water & People.

<http://www.lakotasolarenterprises.com/index.htm>



## Lakota Solar Enterprises

- Manufacturing of solar air collectors and complete supplemental solar heating systems
- Employment and green jobs training for American Indians
- Providing affordable heat sources to families living at life-or-death poverty rates
- Reducing the dependency on polluting and destructive sources of energy, with a goal of helping this nation's First Peoples become energy independent

<http://www.lakotasolarenterprises.com/index.htm>

## Lakota Solar Enterprises



A solar air heater will save this family 20-30% off their heating bills for decades!

## Lakota Solar Enterprises



Students from tribes around the country travel to Pine Ridge to develop their green business plans

"I do not think the measure of a civilization is how tall its buildings of concrete are, but rather how well its people have learned to relate to their environment and fellow man."

~ Chippewa





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